

Marian Dyer
Vice President-Federal Regulatory

SBC Telecommunications, Inc.
1401 I Street, N.W.
Suite 1100
Washington, D.C. 20005
Phone 202 326-8835
Fax 202 408-4805



April 7, 2000

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98-1411

Ms. Carol Matthey
Deputy Bureau Chief
Common Carrier Bureau
Federal Communications Commission
445 12th St., SW, room 5C-451
Washington, DC

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APR - 7 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Ms. Matthey:

In conjunction with the Advanced Services Plan of Record and the remaining issues in dispute pursuant to paragraph 15(c) of the SBC/Ameritech Merger Conditions, SBC Advanced Solutions Inc. (ASI) submits the attached reply memorandum concerning the characterization of certain positions and issues regarding ASI made by the CLEC participants in their "Notification of Final Status of Advanced Services OSS Plan of Record" submitted on April 3, 2000.

Please let me know of any further clarifications that you or your staff may need.

Marian Dyer

Attachment

CC: Mr. Anthony Dale
Ms. Johanna Mikes
Ms. Anita Taff-Rice (on behalf of the CLEC participants)
Mr. Glen Sirles (SBC)

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List ABCDE

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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APR - 7 2000

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In re Applications of AMERITECH CORP.,)
Transferor,)
AND)
SBC COMMUNICATIONS INC.,)
Transferee,)
For Consent to Transfer Control of)
Corporations Holding Commission Licenses)
and Lines Pursuant to Sections 214)
and 310(d) of the Communications Act)
and Parts 5, 22, 24, 25, 63, 90, 95 and 101)
of the Commission's Rules)

CC Docket No. 98-141

**REPLY MEMORANDUM OF SBC ADVANCED SOLUTIONS, INC. TO
NOTIFICATION OF FINAL STATUS OF ADVANCED SERVICES OSS PLAN
OF RECORD FILED BY OTHER "PARTICIPATING CLECS"**

Keith Epstein
V. P. & General Counsel
Robert A. Shives, Jr.
Senior Counsel
SBC Advanced Solutions, Inc.
300 Convent Street, 19th Fl.
San Antonio, TX 78205
210-246-8610
415-246-8699 (facsimile)

April 6, 2000

A. Introduction

On April 3, 2000, Rhythms Links, Inc., MCI WorldCom, Inc., AT&T Corp., Sprint, Covad Communications, Inc., NorthPoint Communications, Inc., Intermedia Communications Inc, IP Communications Corporation, CoreComm Communications, Inc., and Birch Telecom, Inc., (referred to jointly herein as “Other Participating CLECs” or “OPCs”) submitted what they termed a Notification of Final Status (the “OPCs’ Notification”) of SBC Communications, Inc.’s, (“SBC”) Advanced Services OSS Plan of Record (“POR”).

SBC Advanced Solutions, Inc. (“ASI”), SBC’s Advanced Services affiliate, hereby submits this Reply Memorandum solely to address two misleading and inaccurate references to ASI contained in the OPCs’ Notification. In the first instance, the OPCs suggests that ASI supports the OPCs position that SBC has not met its obligations under the SBC/Ameritech Merger Order.¹ That characterization is inaccurate.

In the second instance, the OPCs claims that a system used to support ASI is somehow an ILEC interface, and consequently, should be subject to non-discriminatory access by the OPCs. Again, the OPCs are incorrect.

B. The OPCs Misleading Statements

In the OPCs’ Notification, the OPCs stated that they had participated in a collaborative process with the SBC ILEC, but were unable to reach agreement on certain issues regarding pre-ordering, ordering and provisioning for advanced services, including xDSL-capable loops. They conclude that because an agreement was not reached on all

¹ *In re Applications of Ameritech Corp., Transferor, and SBC Communications, Inc., Transferee, For consent to Transfer For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95 and 101 of the Commission’s Rules*, (rel. October 8, 1999) Appendix C [“Merger Conditions”].

issues, SBC had not fulfilled requirements of the Merger Conditions Order, and, therefore, had not successfully completed Phase 2.²

In support of that position, the OPCs claim that “[n]o CLEC in attendance at the collaborative sessions, *including SBC’s data affiliate*, was willing to sign an agreement indicating that SBC has fully met its obligations during the POR process.”³ The OPC’s inclusion of “SBC’s data affiliate” (presumably a reference to ASI) in this statement, is a blatantly false representation. The obligation under the Merger Conditions was to “work collaboratively with CLECs in a single series of workshop sessions . . . to obtain written agreement on enhancements . . . “ and if agreement could not be reached “notify the Chief of the Common Carrier Bureau and submit a list of the remaining unresolved issues in dispute.”⁴ In point of fact, the OPC’s never asked ASI to execute any “agreement indicating that SBC ha[d] fully met its obligation during the POR process. Nor, was such an agreement required. It is ASI’s view that had such an agreement been offered, the OPCs would certainly have refused to sign it.

As noted by the OPCs, and as anticipated by the Merger Conditions , all CLECs were invited, but not required, to submit a list of unresolved issues following the collaborative sessions. All the CLECs were, in fact, signatories to some form of resolved/unresolved issue list.⁵ But signing an issues list by no means suggests that SBC had not fully met its obligations during the POR process or that SBC was not in full compliance with the Merger Conditions. On the contrary, submitting the issues list is evidence that SBC has met its collaborative obligation.

² OPC Notification at 2.

³ *Id.* (emphasis added).

⁴ Merger Conditions , paragraph 15.c.(2)

⁵ See CLEC Attachment A (changes to which agreement was reached).

Accordingly, the OPC's supposition that action or inaction by ASI indicates ASI's belief that SBC had not met its obligations under the Merger Conditions is unsupported. To remove all doubt, let us be clear that it is ASI's opinion that SBC has fully met its obligations during the POR process and that SBC is in full compliance with the Merger Conditions as a result of the collaborative process in which ASI and the OPCs fully participated.

C. ASOS Is Not Subject to Non-Discriminatory Use By The OPCs

The Merger Conditions require SBC to develop and deploy enhancements to the existing Datagate or EDI interfaces for pre-ordering and ordering xDSL and other advanced services *components* (such as xDSL capable loops).⁶ The OPCs incorrectly assume that the Advanced Services Order System (ASOS) is an interface to an OSS developed by SBC for ASI, and that SBC should have provided information about this System.⁷ However, ASOS is not an interface to an OSS used to perform ordering or pre-ordering of xDSL or ordering or pre-ordering of network elements in support of xDSL.. Rather, ASOS is an application that is utilized to facilitate the handoff of customers' service requests from the allowed jointmarketing functions of the ILEC, to the order initiation functions within ASI. Thus, SBC ILEC sales personnel utilize ASOS to transmit customer "information necessary to complete [an] order (e.g. name, address, due date, premise access information, services, ISP information, CPE information)"⁸ within ASI. Accordingly, ASOS is not subject to a nondiscrimination obligation. Applications developed for use by ASI to provide services to its customers are proprietary to ASI, and

⁶ Merger Conditions, paragraph 15.c.

⁷ OPC Notification at 12.

not subject to use by its CLEC competitors. Similarly, systems that OPCs have developed for their own sales operations are proprietary to them. ASI's use, through permitted joint marketing, of ASOS, is in parity with the OPCs use of any of their own systems. Thus, any claim that SBC had an obligation to provide information about ASOS, or that SBC is required to provide access to ASOS in the name of "parity," is inconsistent with the terms of the Merger Conditions and should be rejected.

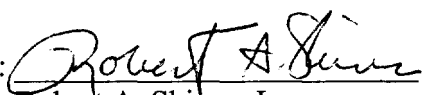
D. Conclusion

For the reasons noted above, the OPCs' misleading statements should be ignored and their unfounded lack of parity claims should be rejected.

Dated: April 6, 2000

Respectfully submitted,

SBC Advanced Solutions, Inc.
300 Convent Street, 19th Floor
San Antonio, TX 78205
210-246-8600
210-246-8699 (facsimile)

By: 
Robert A. Shives, Jr. *ms*
Senior Counsel

⁸ Merger Conditions, paragraph 4.b.(5); see also id. at paragraph 3.a.. (ILEC may provide joint marketing to the Advanced Services affiliate on an exclusive basis, including sales of the Advanced Services and the transfer of Customers' Advanced Services order to the Advanced Services affiliate).